

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Wayne Langston,

Case No. 22-cv-2701 (JRT/DJF)

Plaintiff,

v.

REPORT AND RECOMMENDATION

B. Eischen,

Defendant.

On November 22, 2022, the Court ordered Mr. Langston to file a memorandum on or before December 22, 2022 showing cause as to why the Court should not dismiss his Petition for Habeas Corpus (ECF No. 1) for failure to exhaust administrative remedies (“November 22 Order”) (ECF No. 5). On December 16, 2023, Mr. Langston requested a one-month extension of time to file the memorandum (ECF No. 6), which the Court granted, making the memorandum due January 23, 2023 (ECF No. 7). It is now February 1, 2023, and Mr. Langston has neither filed a memorandum as required by the Court’s order, nor requested an extension of time to comply. Consistent with its November 22 Order, the Court recommends dismissing Mr. Langston’s Petition for Habeas Corpus (ECF No. 1) without prejudice for failure to exhaust administrative remedies.

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT** the Petition for Habeas Corpus (ECF No. [1]) be **DISMISSED WITHOUT PREJUDICE.**

Dated: February 1, 2023

s/ Dulce J. Foster

Dulce J. Foster

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).